

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU-----X
THOMAS KELLY,

-against-

DIOCESE OF ROCKVILLE CENTRE, ST JOSEPH'S
PARISH, ROMANO FERRARO, FR. FITZGERALD
FR. BUTLER,Defendant's.
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To the above-named Defendant's:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this Summons, to serve notice of appearance on the plaintiff's attorneys within twenty [20] days after the service of this summons, exclusive of the day of service (or within thirty [30] days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Garden City, New York
December 3, 2019

SILBERSTEIN, AWAD & MIKLOS, P.C.

By:


MICHAEL LAUTERBORN, ESQ.
Attorneys for Plaintiff
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Suite 505
Garden City, New York 11530
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Index#: _____

Date Index purchased:
_____SUMMONSPlaintiff's designates
NASSAU County as
Place of Trial andBasis of Venue:
Defendant's Principle
Place of Business50 N. Park Avenue
Rockville Centre, NY
11571

TO DEFENDANT'S:

DIOCESE OF ROCKVILLE CENTRE
50 N. Park Avenue
Rockville Centre, New York 11571

ST JOSEPH'S PARISH
50 N. Park Avenue
Rockville Centre, New York 11571

ROMANO FERRARO
50 N. Park Avenue
Rockville Centre, New York 11571

FR. FITZGERALD
50 N. Park Avenue
Rockville Centre, New York 11571

FR. BUTLER
50 N. Park Avenue
Rockville Centre, New York 11571

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU-----X
THOMAS KELLY,

Plaintiff,

Index No.:

Date Filed.:

-against-

VERIFIED COMPLAINTDIOCESE OF ROCKVILLE CENTRE, ST JOSEPH'S
PARISH, ROMANO FERRARO, FR. FITZGERALD
and FR. BUTLER,Defendant's.
-----X

Plaintiff, THOMAS KELLY, by his attorney, SILBERSTEIN, AWAD & MIKLOS, P.C., complaining of the Defendant(s) herein, respectfully alleges upon information and belief:

NATURE OF THE ACTION

1. This action is brought pursuant to the newly enacted Child Victim Act, codified at CPLR 208(b), and concerns sexual abuse of a minor by an adult.
2. Plaintiff THOMAS KELLY (hereinafter "Kelly" or "Plaintiff") was sexually abused, assaulted, and molested on or about the year of 1971 by FERRARO ROMANO and sexually abused by FR. FITZGERALD.

THE PARTIES

3. The plaintiff, THOMAS KELLY, is an adult citizen of the United States and a resident of Suffolk County, State of New York.
4. Upon information and belief, that at all times herein mentioned, defendant DIOCESE OF ROCKVILLE CENTRE [hereinafter the "DIOCESE"] was and still is a non-profit religious corporation, authorized to, and actually engaging in business under the laws of the State of New York within the Counties of Nassau and Suffolk.

5. Upon information and belief, that at all times herein mentioned, defendant DIOCESE maintains its principal place of business in Rockville Centre, Nassau County, New York:

6. Upon information and belief and at all times herein mentioned, defendant DIOCESE operated numerous parishes within the Counties of Nassau and Suffolk, including ST. JOSEPH'S PARISH [hereinafter "ST. JOSEPHS"]

7. Upon information and belief and at all times herein mentioned, defendant ST. JOSEPHS, through its agents, servants and/or employees, was organized as a religious corporation in the County of Suffolk with its principal place of business at 59 Church Street, Kings Park, NY 11754.

8. Upon information and belief and at all times herein mentioned, the defendant ST. JOSEPHS operates within the Diocese, under its control and for its benefit.

9. At all relevant times, the defendant DIOCESE employed the defendant ROMANO FERRARO.

10. At all relevant times, the defendant DIOCESE employed defendant ROMANO FERRARO as a priest.

11. At all relevant times, the defendant ROMANO FERRARO operated under the control and/or supervision of the DIOCESE.

12. At all relevant times, the defendant DIOCESE employed the defendant FR. FITZGERALD.

13. At all relevant times, the defendant DIOCESE, employed the defendant FR. FITZGERALD as a priest.

14. At all relevant times, the defendant FR. FITZGERALD operated under the control and/or supervision of the DIOCESE.

15. At all relevant times, the defendant FR. BUTLER operated under the control and/or supervision of the DIOCESE.

JURISDICTION

16. This Court has jurisdiction pursuant to CPLR § 301 as Defendant's principal places of business are in New York and because the unlawful conduct complained of herein occurred in New York.

17. Venue is proper pursuant to CPLR § 503 in that Nassau County is the principal place of business of the defendant, DIOCESE OF ROCKVILLE CENTRE. In addition, many of the events giving rise to this action occurred in Suffolk County.

FACTUAL ALLEGATIONS

18. Plaintiff, THOMAS KELLY, is an adult man, who, at all times relevant to this Complaint, was under the age of eighteen.

19. Plaintiff, THOMAS KELLY, at all times relevant to his Complaint, was a parishioner of the Church operated by ST. JOSEPHS, located in Kings Park, New York.

20. At all relevant times, Defendant ROMANO FERRARO, was a Roman Catholic priest, employed by, agent and servant of, and acting within the course and scope of his employment and agency for the Defendant DIOCESE.

21. At all relevant times Defendant, ROMANO FERRARO, was assigned by the defendant DIOCESE to be a parish priest at ST. JOSEPHS, where he provided pastoral services to plaintiff, THOMAS KELLY, and was at all times acting within the course and scope of his employment in performing duties on behalf of the defendant, DIOCESE.

22. The defendant, DIOCESE, delegated to the defendant, FERRARO ROMANO, the duties of a priest, including but not limited to, hearing confessions, performing religious services, providing educational, spiritual, moral, and ethical guidance.

23. The defendant, DIOCESE, knew that as a part of his duties as a priest, FERRARO ROMANO would be in a position of trust, authority, and confidence with parishioners, including the plaintiff THOMAS KELLY.

24. The defendant, DIOCESE, knew that as a part of his duties as a priest, defendant, ROMANO FERRARO, would be in a position to have regular and frequent contact with the plaintiff, THOMAS KELLY.

25. The defendant, DIOCESE's, had the right and responsibility to supervise, direct, and control the activities of their employees and agents, including the defendant, ROMANO FERRARO.

26. The defendant, DIOCESE, through its employees and agents, instructed that the defendant, FERRARO ROMANO, should be trusted.

27. At all times relevant hereto, for the purpose of performing his assigned duties, defendant, FERRARO ROMANO, sought and gained the trust of the plaintiff THOMAS KELLY and his parents to spend time alone with the Plaintiff.

28. At all relevant times, the defendant FR. FITZGERALD, was a Roman Catholic priest, employed by, agent and servant of, and acting within the course and scope of his employment and agency for the defendant DIOCESE.

29. At all relevant times the defendant, FR. FITZGERALD, was assigned by the defendant DIOCESE to be a parish priest at ST. JOSEPHS, where he provided pastoral services to Plaintiff, THOMAS KELLY, and was at all times acting within the course and scope of his employment in performing duties on behalf of the defendant, DIOCESE.

30. The defendant, DIOCESE, delegated to the defendant, FR. FITZGERALD, the duties of a priest, including but not limited to, hearing confessions, performing religious services, providing educational, spiritual, moral, and ethical guidance.

31. The defendant, DIOCESE, knew that as a part of his duties as a priest, FR. FITZGERALD would be in a position of trust, authority, and confidence with parishioners, including the plaintiff THOMAS KELLY.

32. The Defendant, DIOCESE, knew that as a part of his duties as a priest, Defendant, FR. FITZGERALD, would be in a position to have regular and frequent contact with the Plaintiff, THOMAS KELLY.

33. The defendant, DIOCESE's, had the right and responsibility to supervise, direct, and control the activities of their employees and agents, including the defendant FR. FITZGERALD.

34. The defendant, DIOCESE, through its employees and agents, instructed that the defendant, FR. FITZGERALD, should be trusted.

35. At all times relevant hereto, defendant, FR. FITZGERALD, for the purpose of performing his assigned duties, sought and gained the trust of the plaintiff THOMAS KELLY and his parents to spend time alone with the Plaintiff.

36. On or around the year 1971, when Plaintiff was approximately 12 years old, the defendant ROMANO FERRARO, engaged in unpermitted sexual contact with the plaintiff, THOMAS KELLY.

37. The defendant, FR. FITZGERALD, on or around the year 1971, acted as a "look out" while ROMANO FERRARO engaged in unpermitted sexual contact with the Plaintiff.

38. On or around the year 1971, when Plaintiff was approximately 12 years old, the defendant FR. FITZGERALD engaged in unpermitted sexual contact with the Plaintiff.

39. At all times relevant hereto, the defendant, FERRARO ROMANO, while acting within the course and scope of his employment and agency with the defendant,

DIOCESE, used the authority, power, and trust of his position to manipulate the Plaintiff into engaging in sexual acts with him.

40. At all times relevant hereto, the defendant, FR. FITZGERALD, while acting within the course and scope of his employment and agency with the defendant DIOCESE, used the authority, power, and trust of his position to manipulate the Plaintiff into engaging in sexual acts with him.

41. At all times relevant hereto, defendant, DIOCESE, knew or should have known that child victims of sexual abuse, including the plaintiff, THOMAS KELLY, would believe that they were in some way responsible for the abuse and would be unlikely to hal from its damaging psychological effects until they felt safe to openly discuss the above:

42. At all times relevant hereto, the defendant, DIOCESE, knew or should have known that victims of sexual abuse, including the Plaintiff, are unlikely to disclose the abuse or seek therapy for the effects of abuse because of shame, guilt, and a belief that they would not be believed if they publicly accused the defendants, FERRARO ROMANO and FR. FITZGERALD.

43. At all relevant times, the defendant FR. BUTLER, was a Roman Catholic priest, employed by, agent and servant of, and acting within the course and scope of his employment and agency for the defendant DIOCESE.

44. At all relevant times the defendant, FR. BUTLER, was assigned by the defendant DIOCESE to be a parish priest at ST. JOSEPHS, where he provided pastoral services to the plaintiff, THOMAS KELLY, and was at all times acting within the course and scope of his employment in performing duties on behalf of the defendant, DIOCESE.

45. The defendant, DIOCESE, delegated to the defendant, FR. BUTLER, the duties of a priest, including but not limited to, hearing confessions, performing religious

services, providing educational, spiritual, moral, and ethical guidance.

46. The defendant, DIOCESE, knew that as a part of his duties as a priest, FR. BUTLER would be in a position of trust, authority, and confidence with parishioners, including the plaintiff THOMAS KELLY.

47. The defendant, DIOCESE, knew that as a part of his duties as a priest, the defendant, FR. BUTLER, would be in a position to have regular and frequent contact with the plaintiff, THOMAS KELLY.

48. The defendant, DIOCESE's, had the right and responsibility to supervise, direct, and control the activities of their employees and agents, including the defendant FR. BUTLER.

49. The defendant, DIOCESE, through its employees and agents, instructed that the defendant, FR. BUTLER, should be trusted.

50. At all times relevant hereto, defendant, FR. BUTLER, for the purpose of performing his assigned duties, sought and gained the trust of the plaintiff THOMAS KELLY and his parents to spend time alone with the Plaintiff.

FIRST CAUSE OF ACTION-NEGLIGENCE

51. The plaintiff, THOMAS KELLY, repeats and realleges each and every paragraph of the complaint numbered "1" through "50" as if the same were fully set forth herein with the same force and effect.

52. At all times relevant hereto, each Defendant owed Plaintiff a duty of reasonable care to protect the Plaintiff from injury.

53. At all times relevant hereto, each Defendant owed Plaintiff a duty of care because each Defendant had a special relationship with the Plaintiff.

54. At all times relevant hereto, prior to the defendant's, FERRARO ROMANO and FR. FITZGRALD's abuse of the Plaintiff, THOMAS KELLY, the defendant DIOCESE, knew that students, including the plaintiff, THOMAS KELLY, were particularly vulnerable to being abused sexually by priests because of their youth, conditioned obedience to priests, and the many opportunities for secluded contact with priests.

55. By establishing and/or operating, the DIOCESE and ST. JOSEPHS, accepting the minor Plaintiff, THOMAS KELLY, as a participant in their programs and holding their facilities and programs out to be a safe environment for the minors, society and more specifically the Plaintiff herein, the Defendants owed the Plaintiff a duty to properly supervise and prevent harm from foreseeable dangers.

56. The DIOCESE and ST. JOSEPHS were negligent in one or more of the following particulars that cause damage to the Plaintiff: In allowing Defendant, FERRARO ROMANO, to perform duties of a priest at St. Joseph's Parish without properly investigating his propensities to sexually abuse minors; in failing to adequately supervise Defendant, FERRARO ROMANO's access to Plaintiff; in failing to supervise the time spent alone by the Plaintiff and Defendant, FERRARO ROMANO.

57. The DIOCESE and ST. JOSEPHS were negligent in one or more of the following particulars that cause damage to the Plaintiff: In allowing the defendant, FR. FITZGRALD, to perform duties of a priest at St. Joseph's Parish without properly investigating his propensities to sexually abuse minors; in failing to adequately supervise defendant, FR FITZGRALD's access to Plaintiff; in failing to supervise the time spent alone by the plaintiff, THOMAS KELLY and the defendant, FR. FITZGRALD.

58. As a direct and proximate result of the negligence of the DIOCESE and ST. JOSEPHS, the Plaintiff has suffered and will suffer damages as alleged above.

**SECOND CAUSE OF ACTION-NEGLIGENT INFLICTION OF EMOTIONAL
DISTRESS**

59. The plaintiff, THOMAS KELLY, repeats and realleges each and every paragraph of the complaint numbered "1" through "58" as if the same were fully set forth herein with the same force and effect.

60. That at all times relevant hereto, the Defendants breached a duty owed to Plaintiff, resulting in severe emotional harm.

61. That at all times relevant hereto, based on the facts mentioned herein above, the conduct of the Defendants amount to extreme and outrageous conduct.

62. As a result of the facts and circumstances set forth above, the Plaintiff suffered and will continue to suffer severe emotional distress.

**THIRD CAUSE OF ACTION-NEGLIGENT TRAINING AND SUPERVISION OF
EMPLOYEES**

63. The plaintiff, THOMAS KELLY, repeats and realleges each and every paragraph of the complaint numbered "1" through "62" as if the same were fully set forth herein with the same force and effect.

64. At all times material, defendant, FERRARO ROMANO, was employed by the Defendants and was under each Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged herein. Defendant, FERRARO ROMANO, engaged in the wrongful conduct while acting in the course and scope of his employment with the Defendant and/or accomplished the sexual abuse by virtue of his job-created authority.

65. At all times material, Defendant, FR. FITZGERALD, was employed by the defendants, DIOCESE and was under each Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged herein. The defendant, FR. FITZGERALD, engaged in the wrongful conduct while acting in the course and scope

of his employment the Defendant accomplished the sexual abuse by virtue of his job-created authority.

66. Defendants had a duty, arising from their employment of the defendants, FERRARO ROMANO and FA FITZGERALD, to ensure that they did not sexually molest children.

67. Further, Defendant's owed a duty to train and educate employees and administrators and establish adequate and effective policies and procedures calculated to detect, prevent, and address inappropriate behavior and conduct between clerics and children.

68. Defendants were negligent in the training, supervision, and instruction of their employees. Defendant's failed to timely and properly educate, train, supervise, and/or monitor their agents or employees with regard to policies and procedures that should be followed when sexual abuse of a child is suspected or observed. Defendants were additionally negligent in failing to supervise, monitor, chaperone, and/or investigate the defendant, FERRARO ROMANO and/or failing to create, institute, and/or enforce rules, policies, procedures, and/or regulations to prevent Defendant, FERRARO ROMANO sexual abuse of Plaintiff. In failing to properly supervise Defendant, FERRARO ROMANO, and in failing to establish such training procedures for employees and administrators, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

69. Defendants were negligent in the training, supervision, and instruction of their employees. Defendant failed to timely and properly educate, train, supervise, and/or monitor their agents or employees with regard to policies and procedures that should be followed when sexual abuse of a child is suspected or observed. Defendants

were additional negligent in failing to supervise, monitor, chaperone, and/or investigate the defendant FR. FITZGERALD and/or failing to create, institute, and/or enforce rules, policies, procedures, and/or regulations to prevent Defendant FR. FITZGERALD's sexual abuse of Plaintiff. In failing to properly supervise Defendant FR. FITZGERALD, and in failing to establish such training procedures for employees and administrators, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

70. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to Plaintiff were caused wholly by reason of the negligent failures of Defendants in the training and/or supervising of its employees.

FOURTH CAUSE OF ACTION-NEGLIGENT RETENTION OF EMPLOYEES

71. The plaintiff, THOMAS KELLY, repeats and realleges each and every paragraph of the complaint numbered "1" through "62" as if the same were fully set forth herein with the same force and effect.

72. At all times material, Defendant, FERRARO ROMANO, was employed by Defendants and was under each Defendants direct supervision, employ, and control when he committed the wrongful acts alleged herein.

73. At all times material, Defendant, FR. FITZGERALD, was employed by Defendants and was under each Defendants direct supervision, employ, and control when he committed the wrongful acts alleged herein.

74. Defendants negligently retained Defendant, FERRARO ROMANO, with knowledge of his propensity for the type of behavior which resulted in Plaintiff's injuries in this action. Defendants failed to investigate Defendant, FERARRO ROMANO's past and/or current history of sexual abuse and, through the exercise of

reasonable diligence, should have known of Defendant, FERRARO ROMANO's propensity for child sexual abuse. Defendant should have made an appropriate investigation of Defendant, FERRARO ROMANO and failed to do so. An appropriate investigation would have revealed the unsuitability of Defendant, FERRARO ROMANO for continued employment and it was unreasonable for Defendants to retain FERRARO ROMANO in light of the information they know or should have known.

75. Defendants negligently retained Defendant, FERRARO ROMANO in a position where he had access to children and could foreseeably cause harm which Plaintiff would not have been subjected to had Defendants taken reasonable care.

76. In failing to timely remove Defendant, FERRARO ROMANO from working with children or terminate the employment of FERRARO ROMANO, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

77. Defendants negligently retained Defendant, FR. FITZGERALD, with knowledge of his propensity for the type of behavior which resulted in Plaintiff's injuries in this action. Defendants failed to investigate Defendant, FR. FITZGERALD's past and/or current history of sexual abuse and, through the exercise of reasonable diligence, should have known of Defendant, FR. FITZGERALD'S propensity for child sexual abuse. Defendant should have made an appropriate investigation of Defendant, FR. FITZGERALD and failed to do so. An appropriate investigation would have revealed the unsuitability of Defendant, FR. FITZGERALD for continued employment and it was unreasonable for Defendants to retain FR. FITZGERALD in light of the information they know or should have known.

78. Defendants negligently retained Defendant, FR. FITZGERALD in a position where he had access to children and could foreseeably cause harm which

Plaintiff would not have been subjected to had Defendants taken reasonable care.

79. In failing to timely remove Defendant, FR. FITZGERALD from working with children or terminate the employment of FR. FITZGERALD, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

80. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to the Plaintiff were caused solely and wholly by reason of he negligent failures of Defendants in the retention of its employees.

PUNITIVE DAMAGES

81. The plaintiff, THOMAS KELLY, repeats and realleges each and every paragraph of the complaint numbered "1" through "80" as if the same were fully set forth herein with the same force and effect.

82. Punitive damages should also be imposed against all Defendants as a result of their wilful, wanton, and gross indifference to their duty to supervise and monitor Plaintiff, THOMAS KELLY.

83. Defendant DIOCESE intentionally accepted Defendant FERRARO ROMANO into their dioceses from the Diocese of Brooklyn, amounting to a criminal conspiracy to hide and otherwise keep quiet from the public in general, and the diocese community, known facts of criminal sexual past practices, known sexual tendencies, and likely future sexual tendencies as to young boys and other children in the diocese community and their relative church establishments.

84. Defendant DIOCESE intentionally accepted Defendant FR. FITZGERALD into their dioceses, amounting to a criminal conspiracy to hide and otherwise keep quiet from the public in general, and the diocese community, known

facts of criminal sexual past practices, known sexual tendencies, and likely future sexual tendencies as to young boys and other children in the diocese community and their relative church establishments.

85. Defendant DIOCESE and other Catholic Church Diocese's operated a criminal scheme and conspiracy to transfer and/or criminally protect certain priests, who were discovered to have certain criminal, sexual tendencies toward children, from the criminal justice system, the public in general, and parishioners. That these acts amounted to a standard operating procedure planned, operated and ordered by members of the Church hierarchy, including Diocese Bishops and other administrative individuals, currently unknown, and likely amounted to regional, national and/or international guidelines, protocols, and procedures to protect certain pedophile priests and to "cover up" such crimes by failing to report and/or advise police officials.

86. Such acts taken by Defendant DIOCESE was willful, deliberate, and made with the conscious decision and plan to avoid criminal charges, civil claims, and the dignity, trust and ideology of the Catholic Church, despite such acts being in direct contradiction to the teachings and religious philosophies of the Church and Christ.

87. Defendant ST JOSEPHS knew or should have reasonably known under the circumstances that ROMANO FERRARO, and FR. FITZGERALD, regularly and consistently abused and allowed the abuse of multiple young children within and outside the Church grounds, that said administrators of the Church willfully participated in the aforementioned conspiracy to hide and keep quiet the fact that certain priests, whose names are mentioned, and others names are not and are not currently known, perpetrated vicious acts of pedophilia and crimes against children on the site and off the site of St. Joseph's Parish, a church within the jurisdiction, control and supervision of the Defendant DIOCESE.

88. These actions and inactions arise to a devious and criminal level sufficient to demonstrative and prove punitive damages, over and beyond the ordinary, compensatory recovery elements afforded to a claimant.

89. The conduct of each of the Defendant's necessitates an award of punitive damages to punish them for their misdeeds, to provide and economic incentive (the moral incentive having been proven inadequate) to discourage them from allowing the children and families of this community and the State of New York from being harmed by the acts of sexual predators who are in a position of power, including, but not limited to, members of the clergy, and to deter others in positions of trust from acting in kind.

WHEREFORE, Plaintiff, THOMAS KELLY, demands that judgment be entered against all the defendants, DIOCESE OF ROCKVILLE CENTRE, ST JOSEPH'S PARISH, ROMANO FERRARO, FR. FITZGERALD and FR. BUTLER, jointly and severally, and in favor of Plaintiff THOMAS KELLY, for

- (i) Compensatory damages in a sum in excess of the jurisdictional limits of the lower courts;
- (ii) Punitive damages in a sum to be determined at trial;
- (iii) For costs and disbursements of the action; and
- (iv) For any such other and further relief as this Court deems just, equitable, and proper.

Dated: Garden City, New York
December 03, 2019



By: Michael Lauterborn, Esq.
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